

REMARKS

Claims 1-49 were pending.

Claim 49 has been canceled without prejudice.

Claims 1-48 are currently pending.

I. Rejections of Claim 49 Under 35 U.S.C. § 112, First and Second Paragraphs

Claim 49 has been rejected under 35 U.S.C. § 112, First Paragraph, as allegedly failing to comply with the written description requirement.

Claim 49 has also been rejected under 35 U.S.C. § 112, Second Paragraph, as allegedly being indefinite.

Without acquiescing to the substantive rejections, and solely to expedite allowance of the claims, Applicants have herein canceled claim 49 without prejudice. Thus, it is respectfully submitted that the rejection of claim 49 is moot and should be withdrawn.

II. Rejection of Claims 1-14 and 16-47 Under 35 U.S.C. § 102(e)

Claims 1-14 and 16-47 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,223,294 to Desenne et al. ("the '294 patent"). Applicants respectfully traverse on the grounds that the '294 patent does not teach each and every element of these claims.

First, it should be noted that the cationic polymer (ii) in currently pending independent claim 1 (and claims 2-14 and 16-47, which all depend therefrom) must be derived from:

- (a) at least one vinylactam or alkylvinylactam monomer;
- (b) at least one monomer having structure (I) of claim 1; and
- (c) at least one quaternized monomer having the structure (II) of claim 1.

See claim 1; Specification page 3. In other words, at least one element from each of (a) through (c) must be present in the cationic polymer of the compositions of the present invention.

Therefore, the cationic polymer is at least a **cationic terpolymer**.

In contrast, the '294 patent does not require at least a cationic terpolymer. The '294 patent teaches compositions that may comprise a cationic polymer, wherein the cationic polymer comprises at least only one of monomers (I) or (II) is required (the '294 patent, col. 11, lines 28-43). Thus, the cationic polymer is not **at least a cationic terpolymer**. For at least this reason, the '294 patent does not teach each and every element of the pending claims.

Next, even if the '294 patent were to teach such a cationic terpolymer (which Applicants maintain that it does not), it is Applicants' belief that the '294 patent is not a valid reference under 35 U.S.C. § 102(e), as Applicants were in possession of the present invention before the earliest effective filing date of the '294 patent. If necessary, Applicants would be willing to provide a Declaration to attest that they were in possession of the claimed invention before the earliest effective filing date of the '294 patent (that is, before December 20, 2001).

Thus, for at least these reasons, Applicants respectfully submit that this rejection has been overcome and should be withdrawn.

III. Rejection of Claims 1-48 Under 35 U.S.C. § 103(a)

Claims 1-48 have been rejected under 35 U.S.C. § 103(a) as purportedly being anticipated by the combination of the '294 patent, along with U.S. Patent No. 6,540,791 ("the '791 patent"), and WO 01/41722 whose English equivalent is U.S. Patent No. 6,984,250 ("the '250 patent"). Applicants respectfully traverse this rejection

First, as stated previously, the '294 patent does not teach each and every element of the pending claims; moreover, even if it does, Applicants believe that the '294 patent is not a valid reference over the presently pending claims. Furthermore, a combination of the teachings of the '294 patent with those of the '791 patent and the '250 patent is at least improper, and at most does not cure the defects of the '294 patent. Because the '294 patent does not teach compositions comprising at least a **cationic terpolymer**, such a combination with the other cited references would not yield in the presently claimed compositions. Thus, for at least these reasons, Applicants respectfully submit that this rejection has been overcome and should be withdrawn.

In light of the above remarks, it is believed that the claims are in condition for allowance, early notice of which is earnestly solicited. Should any outstanding issues remain, the Examiner is invited to contact Applicants' attorneys at the telephone number listed below.

No fees, other than the fee for extension of time, are believed to be due for the filing of this Amendment and Response. However, the Director is hereby authorized to charge any and all fees due, or credit any overpayment, to Deposit Account No. 03-1250.

Respectfully submitted,

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